

AMENDED IN ASSEMBLY AUGUST 20, 1998

AMENDED IN ASSEMBLY JUNE 17, 1998

AMENDED IN SENATE MAY 11, 1998

AMENDED IN SENATE APRIL 27, 1998

SENATE BILL

No. 1988

Introduced by Senator Craven

(Principal coauthor: Assembly Member Morrow)

(Coauthors: Senators Ayala and O'Connell)

February 19, 1998

An act to amend Sections 1102, 1102.1, 1102.2, and 1102.9 of, and to add Sections 1102.3a and 1102.6e to, the Civil Code, and to amend Sections 18025 and 18046 of, *and to add Section 18400.2 to*, the Health and Safety Code, relating to property disclosures.

LEGISLATIVE COUNSEL'S DIGEST

SB 1988, as amended, Craven. Disclosures: mobilehomes.

Existing law makes provisions for the disclosure of specified information upon the transfer of residential real property applicable to the resale of a manufactured home or mobilehome, which are classified as personal property, on or after January 1, 1999.

This bill would revise and recast these disclosure requirements to, among other things, provide a transfer disclosure form to be used for specified manufactured homes and mobilehomes.

The bill would require the Department of Housing and Community Development, or any city, county, or city or county that has assumed responsibility for the enforcement of existing law provisions regarding mobilehome parks to make all inspection records regarding these mobilehome parks, or legible facsimiles thereof, available to the public. By creating additional duties for local officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The bill would incorporate additional changes to Section 18025 of the Health and Safety Code proposed by AB 1984 to be operative only if AB 1984 is also chaptered and this bill is chaptered last.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1102 of the Civil Code is
2 amended to read:
3 1102. (a) Except as provided in Section 1102.2, this
4 article applies to any transfer by sale, exchange,
5 installment land sale contract, as defined in Section 2985,
6 lease with an option to purchase, any other option to
7 purchase, or ground lease coupled with improvements, of
8 real property, or residential stock cooperative, improved
9 with or consisting of not less than one nor more than four
10 dwelling units.
11 (b) Except as provided in Section 1102.2, this article
12 shall apply to a resale transaction entered into on or after



1 January 1, 1999, for a manufactured home, as defined in
2 Section 18007 of the Health and Safety Code, which is
3 classified as personal property intended for use as a
4 residence, or a mobilehome, as defined in Section 18008
5 of the Health and Safety Code, which is classified as
6 personal property intended for use as a residence.

7 (c) Any waiver of the requirements of this article is
8 void as against public policy.

9 SEC. 2. Section 1102.1 of the Civil Code is amended
10 to read:

11 1102.1. (a) In enacting Chapter 817 of the Statutes of
12 1994, it was the intent of the Legislature to clarify and
13 facilitate the use of the real estate disclosure statement,
14 as specified in Section 1102.6. The Legislature intended
15 the statement to be used by transferors making
16 disclosures required under this article and by agents
17 making disclosures required by Section 2079 on the
18 agent's portion of the real estate disclosure statement, in
19 transfers subject to this article. In transfers not subject to
20 this article, agents may make required disclosures in a
21 separate writing. The Legislature did not intend to affect
22 the existing obligations of the parties to a real estate
23 contract, or their agents, to disclose any fact materially
24 affecting the value and desirability of the property,
25 including, but not limited to, the physical conditions of
26 the property and previously received reports of physical
27 inspections noted on the disclosure form set forth in
28 Section 1102.6 or 1102.6a, and that nothing in this article
29 shall be construed to change the duty of a real estate
30 broker or salesperson pursuant to Section 2079.

31 It is also the intent of the Legislature that the delivery
32 of a real estate transfer disclosure statement may not be
33 waived in an "as is" sale, as held in *Loughrin v. Superior*
34 *Court*, 15 Cal. App. 4th 1188.

35 (b) In enacting Chapter 677 of the Statutes of 1996, it
36 was the intent of the Legislature to clarify and facilitate
37 the use of the manufactured home and mobilehome
38 transfer disclosure statement applicable to the resale of a
39 manufactured home or mobilehome pursuant to
40 subdivision (b) of Section 1102. The Legislature intended

1 the statements to be used by transferors making
2 disclosures required under this article and by agents
3 making disclosures required by Section 2079 on the
4 agent's portion of the disclosure statement and as
5 required by Section 18046 of the Health and Safety Code
6 on the dealer's portion of the manufactured home and
7 mobilehome transfer disclosure statement, in transfers
8 subject to this article. In transfers not subject to this
9 article, agents may make required disclosures in a
10 separate writing. The Legislature did not intend to affect
11 the existing obligations of the parties to a real estate
12 contract, or their agents, to disclose any fact materially
13 affecting the value and desirability of the property,
14 including, but not limited to, the physical conditions of
15 the property and previously received reports of physical
16 inspections noted on the disclosure form set forth in
17 Section 1102.6 or 1102.6a or to affect the existing
18 obligations of the parties to a manufactured home or
19 mobilehome purchase contract, and nothing in this
20 article shall be construed to change the duty of a real
21 estate broker or salesperson pursuant to Section 2079 or
22 the duty of a manufactured home or mobilehome dealer
23 or salesperson pursuant to Section 18046 of the Health and
24 Safety Code.

25 It is also the intent of the Legislature that the delivery
26 of a mobilehome transfer disclosure statement may not
27 be waived in an "as is" sale.

28 SEC. 3. Section 1102.2 of the Civil Code is amended
29 to read:

30 1102.2. This article does not apply to the following:

31 (a) Transfers which are required to be preceded by
32 the furnishing to a prospective transferee of a copy of a
33 public report pursuant to Section 11018.1 of the Business
34 and Professions Code and transfers which can be made
35 without a public report pursuant to Section 11010.4 of the
36 Business and Professions Code.

37 (b) Transfers pursuant to court order, including, but
38 not limited to, transfers ordered by a probate court in
39 administration of an estate, transfers pursuant to a writ of
40 execution, transfers by any foreclosure sale, transfers by



1 a trustee in bankruptcy, transfers by eminent domain,
2 and transfers resulting from a decree for specific
3 performance.

4 (c) Transfers to a mortgagee by a mortgagor or
5 successor in interest who is in default, transfers to a
6 beneficiary of a deed of trust by a trustor or successor in
7 interest who is in default, transfers by any foreclosure sale
8 after default, transfers by any foreclosure sale after
9 default in an obligation secured by a mortgage, transfers
10 by a sale under a power of sale or any foreclosure sale
11 under a decree of foreclosure after default in an
12 obligation secured by a deed of trust or secured by any
13 other instrument containing a power of sale, transfers by
14 a mortgagee or a beneficiary under a deed of trust who
15 has acquired the real property at a sale conducted
16 pursuant to a power of sale under a mortgage or deed of
17 trust or a sale pursuant to a decree of foreclosure or has
18 acquired the real property by a deed in lieu of foreclosure,
19 transfers to the legal owner or lienholder of a
20 manufactured home or mobilehome by a registered
21 owner or successor in interest who is in default, or
22 transfers by reason of any foreclosure of a security interest
23 in a manufactured home or mobilehome.

24 (d) Transfers by a fiduciary in the course of the
25 administration of a decedent's estate, guardianship,
26 conservatorship, or trust.

27 (e) Transfers from one coowner to one or more other
28 coowners.

29 (f) Transfers made to a spouse, or to a person or
30 persons in the lineal line of consanguinity of one or more
31 of the transferors.

32 (g) Transfers between spouses resulting from a
33 judgment of dissolution of marriage or of legal separation
34 or from a property settlement agreement incidental to
35 such a judgment.

36 (h) Transfers by the Controller in the course of
37 administering Chapter 7 (commencing with Section
38 1500) of Title 10 of Part 3 of the Code of Civil Procedure.

39 (i) Transfers under Chapter 7 (commencing with
40 Section 3691) or Chapter 8 (commencing with Section

1 3771) of Part 6 of Division 1 of the Revenue and Taxation
2 Code.

3 (j) Transfers or exchanges to or from any
4 governmental entity.

5 SEC. 4. Section 1102.3a is added to the Civil Code, to
6 read:

7 1102.3a. (a) The transferor of any manufactured
8 home or mobilehome subject to this article shall deliver
9 to the prospective transferee the written statement
10 required by this article, as follows:

11 (1) In the case of a sale, or a lease with an option to
12 purchase, of a manufactured home or mobilehome,
13 involving an agent, as defined in Section 18046 of the
14 Health and Safety Code, as soon as practicable, but no
15 later than the close of escrow for the purchase of the
16 manufactured home or mobilehome.

17 (2) In the case of a sale, or lease with an option to
18 purchase, of a manufactured home or mobilehome, not
19 involving an agent, as defined in Section 18046 of the
20 Health and Safety Code, at the time of execution of any
21 document by the prospective transferee with the
22 transferor for the purchase of the manufactured home or
23 mobilehome.

24 (b) With respect to any transfer subject to this section,
25 the transferor shall indicate compliance with this article
26 either on the transfer disclosure statement, any
27 addendum thereto, or on a separate document.

28 (c) If any disclosure, or any material amendment of
29 any disclosure, required to be made pursuant to
30 subdivision (b) of Section 1102, is delivered after the
31 execution of an offer to purchase, the transferee shall
32 have three days after delivery in person or five days after
33 delivery by deposit in the mail, to terminate his or her
34 offer by delivery of a written notice of termination to the
35 transferor.

36 SEC. 5. Section 1102.6e is added to the Civil Code, to
37 read:

38 1102.6e. Except for manufactured homes and
39 mobilehomes located in a common interest development
40 governed by Title 6 (commencing with Section 1351), the



1 disclosures applicable to the resale of a manufactured
2 home or mobilehome pursuant to subdivision (b) of
3 Section 1102 are set forth in, and shall be made on a copy
4 of, the following disclosure form:



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2 INSERTED
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1 SEC. 6. Section 1102.9 of the Civil Code is amended
2 to read:

3 1102.9. Any disclosure made pursuant to this article
4 may be amended in writing by the transferor or his or her
5 agent, but the amendment shall be subject to Section
6 1102.3 or Section 1102.3a.

7 SEC. 7. Section 18025 of the Health and Safety Code
8 is amended to read:

9 18025. (a) Except as provided in subdivisions (b) and
10 (c), it is unlawful for any person to sell, offer for sale, rent,
11 or lease within this state, any manufactured home or any
12 mobilehome, commercial coach, special purpose
13 commercial coach, or recreational vehicle manufactured
14 after September 1, 1958, containing structural, fire safety,
15 plumbing, heat-producing, or electrical systems and
16 equipment unless the systems and equipment meet the
17 requirements of the department for those systems and
18 equipment and the installation of them. The department
19 may promulgate those rules and regulations which shall
20 be reasonably consistent with recognized and accepted
21 principles for structural, fire safety, plumbing,
22 heat-producing, and electrical systems and equipment
23 and installations, respectively, in order to protect the
24 health and safety of the people of this state from dangers
25 inherent in the use of substandard and unsafe structural,
26 fire safety, plumbing, heat-producing, and electrical
27 equipment and installations.

28 (b) All manufactured homes and mobilehomes
29 manufactured on or after June 15, 1976, shall comply with
30 the National Manufactured Housing Construction and
31 Safety Standards Act of 1974 (42 U.S.C. Sec. 5401 et seq.).

32 (c) The sale of used manufactured homes and
33 mobilehomes by an agent shall be subject to Section
34 18046.

35 SEC. 7.5. Section 18025 of the Health and Safety Code
36 is amended to read:

37 18025. (a) Except as provided in subdivisions (b) and
38 (c), it is unlawful for any person to sell, offer for sale, rent,
39 or lease within this state, any manufactured home or any
40 mobilehome, commercial coach, or special purpose

1 commercial coach manufactured after September 1,
2 1958, containing structural, fire safety, plumbing,
3 heat-producing, or electrical systems and equipment
4 unless the systems and equipment meet the
5 requirements of the department for those systems and
6 equipment and the installation of them. The department
7 may adopt those rules and regulations which shall be
8 reasonably consistent with recognized and accepted
9 principles for structural, fire safety, plumbing,
10 heat-producing, and electrical systems and equipment
11 and installations, respectively, in order to protect the
12 health and safety of the people of this state from dangers
13 inherent in the use of substandard and unsafe structural,
14 fire safety, plumbing, heat-producing, and electrical
15 equipment and installations.

16 (b) All manufactured homes and mobilehomes
17 manufactured on or after June 15, 1976, shall comply with
18 the National Manufactured Housing Construction and
19 Safety Standards Act of 1974 (42 U.S.C. Sec. 5401 et seq.).

20 (c) The sale of used manufactured homes and
21 mobilehomes by an agent shall be subject to Section
22 18046.

23 SEC. 8. Section 18046 of the Health and Safety Code
24 is amended to read:

25 18046. (a) An “agent” for purposes of this section,
26 Section 18025, and subdivision (b) of Section 1102 of the
27 Civil Code means a dealer or salesperson licensed
28 pursuant to this part, or a real estate broker or salesperson
29 licensed pursuant to Division 4 (commencing with
30 Section 10000) of the Business and Professions Code.

31 (b) A “seller” for the purposes of this section, Section
32 18025, and subdivision (b) of Section 1102 of the Civil
33 Code means the lawful owner of the manufactured home
34 or mobilehome offering the home for sale. For purposes
35 of this section, Section 18025, and subdivision (b) of
36 Section 1102 of the Civil Code, and the exemptions
37 enumerated by Section 1102.2 of the Civil Code shall be
38 applicable to the transfer of a manufactured home or
39 mobilehome.



1 (c) The sale of used manufactured homes or
2 mobilehomes by a real estate broker or salesperson
3 licensed under Division 4 (commencing with Section
4 10000) of the Business and Professions Code shall be
5 subject to Section 2079 of the Civil Code.

6 (d) It is the duty of a dealer or salesperson, licensed
7 under this chapter, to a prospective buyer of a used
8 manufactured home or mobile home, subject to
9 registration pursuant to this part, to conduct a reasonably
10 competent and diligent visual inspection of the home
11 offered for sale and to disclose to that prospective buyer
12 all facts materially affecting the value or desirability of
13 the home that an investigation would reveal, if that dealer
14 or salesperson has a written contract with the seller to
15 find or obtain a buyer or is a dealer or salesperson who acts
16 in cooperation with others to find and obtain a buyer.
17 Where a transfer disclosure statement is required
18 pursuant to subdivision (b) of Section 1102 of the Civil
19 Code, a dealer or salesperson shall discharge that duty by
20 completing the agent's portion of the transfer disclosure
21 statement that a seller prepares and delivers to a
22 prospective buyer pursuant to subdivision (b) of Section
23 1102 of the Civil Code. If no transfer disclosure statement
24 is required, but the transaction is not exempt under
25 Section 1102.2 of the Civil Code, a dealer shall discharge
26 that duty by completing and delivering to the
27 prospective buyer an exact reproduction of Sections III,
28 IV, and V of the transfer disclosure statement required
29 pursuant to subdivision (b) of Section 1102 of the Civil
30 Code.

31 SEC. 9. *Section 18400.2 is added to the Health and*
32 *Safety Code, to read:*

33 *18400.2. The enforcement agency shall not destroy*
34 *records of mobilehome park and lot inspections and shall*
35 *make all inspection records, or legible facsimiles thereof,*
36 *available to the public. Copies of inspection records shall*
37 *also be made available for the cost of reproduction to the*
38 *public upon request.*

39 SEC. 10. Section 7.5 of this bill incorporates
40 amendments to Section 18025 of the Health and Safety

1 Code proposed by both this bill and AB 1984. It shall only
2 become operative if (1) both bills are enacted and
3 become effective on or before January 1, 1999, (2) each
4 bill amends Section 18025 of the Health and Safety Code,
5 and (3) this bill is enacted after AB 1984, in which case
6 Section 7 of this bill shall not become operative.

7 *SEC. 11. Notwithstanding Section 17610 of the*
8 *Government Code, if the Commission on State Mandates*
9 *determines that this act contains costs mandated by the*
10 *state, reimbursement to local agencies and school*
11 *districts for those costs shall be made pursuant to Part 7*
12 *(commencing with Section 17500) of Division 4 of Title*
13 *2 of the Government Code. If the statewide cost of the*
14 *claim for reimbursement does not exceed one million*
15 *dollars (\$1,000,000), reimbursement shall be made from*
16 *the State Mandates Claims Fund.*

17 *Notwithstanding Section 17580 of the Government*
18 *Code, unless otherwise specified, the provisions of this act*
19 *shall become operative on the same date that the act*
20 *takes effect pursuant to the California Constitution.*

